

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

FILED JAN 4 '02 PM 12:41 USDCAL5

ALFRED V. ABRAMS, *et al.*,

*

Plaintiffs

*

vs.

* Civil Action 02-0012-BH-L

**JACK TILLMAN, Sheriff of Mobile
County, Alabama, and THE MOBILE
COUNTY COMMISSION**

*

*

Defendants

*

*

NOTICE OF REMOVAL

Jack Tillman, Sheriff of Mobile County, Alabama, and the Mobile County Commission, defendants herein, petition this Court to remove this action from the Circuit Court of Mobile County, Alabama, in which such action is now pending, to the United States District Court for the Southern District of Alabama, pursuant to 28 U.S.C. § 1441(b), and state:

1. This action was commenced by plaintiffs in the Circuit Court of Mobile County, Alabama, Case No. CV99-3326, against the Mobile County Commission on October 12, 1999. The Mobile County Commission was not served.

2. On December 11, 2001, the plaintiffs amended their complaint and added Jack Tillman, Sheriff of Mobile County, Alabama as a defendant. Defendant Jack Tillman was served on December 11, 2001. The Mobile County Commission was also served on December 11, 2001.

3. Copies of all documents filed in the Circuit Court of Mobile County are attached.

4. This action is one which may be removed to this court by the petitioners, defendants therein, pursuant to *28 U.S.C. § 1441*, in that the action claims damages for overtime wages pursuant to the *Fair Labor Standards Act, 29 U.S.C. §207* over which this court has original jurisdiction.

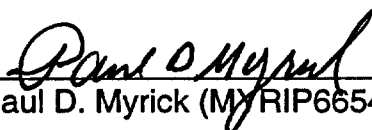
5. Written notice of the filing of this notice will be sent to plaintiffs as required by *28 U.S.C. § 1446(d)*.


6. A copy of this notice will be filed with the clerk of the Circuit Court of Mobile County, Alabama as required by *28 U.S.C. § 1446(d)*.

6. This Notice of Removal is timely under *28 U.S.C. § 1446(b)* in that thirty days have not expired since the defendants received a copy of the summons and complaint.

WHEREFORE, the defendants respectfully request this Court to accept jurisdiction of this action and that this action be placed on the docket of this Court for further proceedings as if this action was originally instituted in this Court.

Dated at Mobile, Alabama this 4th day of January, 2002.


Paul D. Myrick (MYRIP6654)


Elizabeth D. Rehm (REHME4348)
Kelly Collins Woodford (WOODK6462)
ADAMS AND REESE LLP
4500 One St. Louis Center
Mobile, Alabama 36602

Telephone (251) 433-3234
Facsimile (251) 438-7733

Attorneys for the Defendants


OF COUNSEL

Barry C. Prine, Esq.
Sintz, Campbell, Duke & Taylor
3763 Professional Parkway
Mobile, AL 36609
Telephone: (251) 344-7241
Facsimile: (251) 344-7400
Attorney for Jack Tillman,
Sheriff of Mobile County, Alabama

Lawrence M. Wettermark, Esq.
Galloway, Smith, Wettermark & Everest
P.O. Box 16629
Mobile, AL 36619-0629
Telephone: (251) 476-4493
Attorney for Mobile County Commission

CERTIFICATE OF SERVICE

I, Elizabeth D. Rehm, one of the attorneys for the defendants, hereby certify that on the 4th day of January, 2002, I served a copy of the foregoing Notice of Removal on the plaintiffs by mailing a copy thereof in a duly addressed envelope, first class postage prepaid, to their attorney of record, Joseph O. Kulakowski, Post Office Box 2112, Mobile, Alabama 36652.


Elizabeth D. Rehm

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

ALBERT V. ABRAMS; TERENCE A.
ALLEN; GERALD G. ALLRED;
PAULA ANTONE; STANLEY M.
ARNOLD; DARRYL A. BENARD;
LEN L. BENDOLPH; MELISSA
BENDOLPH (LANG); ZSAQUEZ R.
BEVERLY; TAMMY BLACKMORE;
JAMES BREECH, IV; TAMARCUS
BREECH; GAIL D. BROWN;
KEITH BROWN; SHOMONA D.
BROWN; STEPHANIE Y.
BURROWES; LAWARNER H.
BUSH; ROSEMARY CALDWELL;
HAROLD CAWTHORNE;
MARILYN W. CHAPMAN; DORA J.
CHESTANG; DAVETTE W. COBB;
DAVID DALLAS; MIRANDA DAVIS;
PAULINE A. DAVIS; RODERICK D.
DAVIS; GWENDOLYN R. DAY;
TIMOTHY A. DEMINGS; AUSTON L.
DURGIN; XAVIA P. EDWARDS;
ZELDA D. EDWARDS; TORINA D.
ELDRIDGE; MELISSA ESSEX;
~~MARION L. FOSTER~~ *new petff*
KATONYA B. FROST; EDDIE
GAMBLE, III; GABRIEL GASTON;
BRIDGETTE D. GOODE;
ERNEST C. GOODE, JR.;
RODERICK L. GORDON, SR.;
VEBERLY A. GREEN; RIKKE H.
GRIFFIN; CLEON GULLEY;
MARTIN GWIN; ANTHONY D.
HARRIS; ROOSEVELT G. HARRIS;
TUNGLIA W. HAWKINS; BARON L.
HAYES; LEARA HENDERSON;
WANDA HENDERSON; DEBORAH
HENDRIX; CAROL B. HOLLOWAY;
TRACI HOLMES; MARCELLA
HOLTZ; MAURICE HOUSTON;
WALKENER HUDSON; JOHN D.
IRVING; ETHEL JACKSON;
TARJI M. JACKSON; CEPHUS L.
JOHNSON, JR.; MARIAN E.

CASE NUMBER CV 99-003326

STATE OF ALABAMA
I CERTIFY THIS
PLEADING WAS FILED ON

2001 DEC 11 A 11:20

James F. Wilson
CLERK CIRCUIT COURT

JOHNSON; CHARLES A.	*
JOHNSTON, JR.; HOPE J. JONES;	*
TASKY M. JORDAN; CLAUDIA	*
KIMBROUGH; ANDRE G. KING;	*
DAN F. KING; PAMELA LAFFITTE;	*
YOLANDA T. LANE; FLOYD	*
LANGER, JR.; REGINALD D. LAW;	*
ANDREW J. LEE; DeANGELA M.	*
LOPER; JACQUELYN MANUEL;	*
VERONICA MARSH;	*
CHRISTOPHER MATTHEWS;	*
GEORGIA M. McCANN;	*
MICHAEL F. McClINTON; GARY L.	*
McCONICO, SR.; ANNA L.	*
McCONN; GLORIA P. McCOVERY;	*
- ASHANTA McGEE; EDGAR L.	*
McKENZIE; RUTHIE McQUEEN;	*
ESTER L. MITCHELL; LORRAINE	*
CHARLES-MITCHELL; CINDY	*
MONIGAN; YOLONDA MOORE;	*
ARDECE V. MYRICK; JOHN T.	*
NEESE; NICHOLAS J.	*
O'DONOGHUE; TANGZANIKA L.	*
OVERTON; NAKIMA PACKER;	*
PEARLINE PATRICK;	*
CHAROLETTE PATTERSON;	*
TONY B. PATTERSON; SHANE E.	*
PATTON; JO ANN PEAVY;	*
ERIC PEOPLES; JESSIE L.	*
PETTAWAY, JR.; ANISSA POPE;	*
MARY L. PORTER; PAMELA D.	*
POWE; FELECIA PRINCE;	*
SHARRON R. PROWELL;	*
LOLITA M. PUGH; EDGAR B.	*
QUARLES, JR.; SANDRA RANKIN;	*
EMILEY ROBINSON; KEITH A.	*
ROBINSON; RANDAL M. ROCKER;	*
TIMOTHY B. RUSSELL, JR.;	*
MICHAEL M. SCOTT;	*
ETTA HUNTER-SIGLER;	*
DELMARIE D. SMITH;	*
VALERIE R. SMITH; WILLIAM	*
STEEN, JR.; ELMO D. STOVALL;	*
DEMETRICE TATE; VICTORIA D.	*
TAYLOR; JOE A. THOMPSON;	*
LUCILLE THORNTON; CRYSTAL R.	*

THREADGILL; GARY TILLMAN; *
ELLA D. TOLBERT; REGINALD L. *
TRAYLOR; WILLIAM B. *
TREADWELL; DAN C. TUCKER; *
KEITH A. TURNER, SR.; BRENDA *
WALKER; EDWARD A. WALKER; *
ERICA D. TURNER-WALKER; *
CAROL WASHINGTON; *
MARQUIS L. WESTRY; ABRAM *
WILLIAMS; CHRISTOPHER *
WILLIAMS; HERBERT L. *
WILLIAMS; OSBIEN L. WILLIAMS; *
TARRA M. WILLIAMS; SIDNEY H. *
WILLIS; RODERICK YORK;~ *
PRISCILLA O. YOUNG; *
ROBIN K. ZIRLOTT, *

Plaintiffs, *

vs. *

JACK TILLMAN, Sheriff of *
Mobile County, Alabama, and *
THE MOBILE COUNTY *
COMMISSION, The Governing *
Body for Mobile County, Alabama, *

Defendants. *

AMENDED COMPLAINT

COUNT ONE

CLAIMS FOR OVERTIME WAGE DAMAGES

COUNT ONE OF THIS COMPLAINT SEEKS DAMAGES, PURSUANT TO RULE 3.1(C) OF THE LAWS AND RULES OF THE PERSONNEL BOARD OF MOBILE COUNTY, ALABAMA, AND THE FAIR LABOR STANDARDS ACT, 29 U.S.C. § 207(A)(1), FOR OVERTIME WAGES DUE THE PLAINTIFFS FOR TIME WORKED IN EXCESS OF FORTY (40) PAID HOURS PER WORK WEEK.

1. The Plaintiffs are employees or former employees of Mobile County who have worked as corrections officers or as Sergeants and Lieutenants at the Mobile County Metro Jail.

2. the Defendant, Jack Tillman, is the duly elected Sheriff of Mobile County, Alabama at all relevant times. The Defendant, Mobile County Commission, is a governmental entity designated by the Alabama Legislature. At all relevant times, the Defendant Jack Tillman and the Defendant Mobile County Commission, were the employers of the Plaintiffs named in this Complaint and, at all relevant times, are subject to the Laws and Rules of the Personnel Board of Mobile County, Alabama, as provided in 1939 Alabama Local Act 470. Rule 3.1(c) of the Personnel Board provides as follows:

“PAYMENT FOR OVERTIME. 3.1(c) All employees non-exempt from the provisions of the Fair Labor Standards Act shall be compensated for overtime for all hours paid in excess of forty (40) hours per week at one and one half (1 ½) times the employees' hourly rate of pay, or in the alternative, shall be awarded compensatory time in accordance with the provisions of said Act.” (Emphasis added.)

The Plaintiffs aver that they are employees non-exempted from the provisions of the Fair Labor Standards Act.

3. The Plaintiffs aver that the Mobile County Commission is an “employer” under the purview of the Fair Labor Standards Act, 29 U.S.C. § 207(a)(1), which provides:

“(a)(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in any enterprise engaged in commerce or in the

production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.” (Emphasis added.)

4. The Plaintiffs, who are corrections officers, allege that they are required to work a 15 minute pre-shift roll call and are required to work 15 minutes on post-shift duties in excess of the scheduled 8 hour work shift, for which excess time they have not been compensated in accordance with Rule 3.1(c) of the Personnel Board Rules and § 207(a)(1) of the Fair Labor Standards Act.

5. The Plaintiffs, who are Sergeants and Lieutenants, allege that they are required to work 30 minutes pre-shift and 30 minutes post-shift in excess of the scheduled 8 hour work shift, for which excess time they have not been compensated in accordance with Rule 3.1(c) of the Personnel Board Rules and § 207(a)(1) of the Fair Labor Standards Act.

6. The Plaintiffs further allege, because of the “wilful” failure of the Defendant to compensate them for the overtime hours worked pursuant to 29 U.S.C. § 216(c), that they are entitled to the overtime compensation due them at one and one-half (1 1/2) times their regular hourly rate and, in addition thereto, an equal amount as liquidated damages for the three years next preceding the filing of this lawsuit. Further, the Plaintiffs allege that, pursuant to 29 U.S.C. § 216(c) of the Fair Labor Standards Act, they are entitled to a reasonable attorney fee for the prosecution of this claim and the costs of these proceedings.

WHEREFORE, the above premises considered, the Plaintiffs demand, pursuant to Rule 3.1(c) of the Personnel Board Rules and 29 U.S.C. § 207(a)(1) and § 216(c), damages against the Defendant for: 1) overtime wages due them for hours worked in excess of forty (40) paid hours in a work week at one and one-half (1 1/2) times their regular hourly rate; 2) an equal amount as liquidated damages for the three years next preceding the filing of this lawsuit; 3) a reasonable attorney fee for the prosecution of this action; and 4) the costs of these proceedings.

COUNT TWO

IN COUNT TWO OF THIS COMPLAINT, THE PLAINTIFFS SEEK AN ORDER OF THIS COURT ENJOINING AND DIRECTING THE DEFENDANTS TO PAY OVERTIME WAGES IN THE FUTURE TO THE PLAINTIFFS FOR TIME WORKED IN EXCESS OF FORTY (40) PAID HOURS IN A WORK WEEK.

7. The Plaintiffs re-allege and re-assert the allegations contained in paragraphs 1, 2, 3, 4, 5, and 6 of Count One of this Complaint.

8. The Plaintiffs allege that they are entitled to be paid in the future in accordance with Rule 3.1(c) of the Laws and Rules of the Personnel Board of Mobile County, Alabama for all hours worked in excess of forty (40) paid hours in a work week at the rate of one and one-half (1 1/2) times the employees' hourly rate of pay.

9. The Plaintiffs allege that they are entitled to be paid in the future in accordance with 29 U.S.C. § 207(a)(1) of the Fair Labor Standards Act for all hours worked in excess of forty (40) hours in a work week at a rate not less than one and one-half times the regular rate at which he/she is employed.

PRAYER FOR RELIEF

WHEREFORE, the above premises considered, the Plaintiffs pray that the Court will enter an Order enjoining and directing the Defendants to pay overtime wages in the future to the Plaintiffs in accordance with Rule 3.1(c) of the Laws and Rules of the Personnel Board of Mobile County, Alabama, and 29 U.S.C. § 207(a)(1) of the Fair Labor Standards Act.

Respectfully submitted,



JOSEPH O. KULAKOWSKI, KUL002
Attorney for the Plaintiffs
254 North Conception Street
Post Office Box 2112
Mobile, Alabama 36652
Telephone Number (334) 433-9549
Facsimile Number (334) 433-9559

PLEASE HAVE SPECIAL PROCESS SERVER, DIANE CIEUTAT, SERVE
THE DEFENDANT SHERIFF JACK TILLMAN, AS FOLLOWS:

Mobile County Sheriff's Office
Mobile County Courthouse
Government Street
Mobile, Alabama

PLEASE HAVE SPECIAL PROCESS SERVER, DIANE CIEUTAT, SERVE
THE DEFENDANT MOBILE COUNTY COMMISSION BY SERVING SAM
JONES, ITS PRESIDENT, AS FOLLOWS:

Mobile County Commission
Mobile Government Plaza
205 Government Street
Mobile, Alabama

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

ALBERT V. ABRAMS; TERENCE A.
ALLEN; GERALD G. ALLRED;
PAULA ANTONE; STANLEY M.
ARNOLD; DARRYL A. BENARD;
LEN L. BENDOLPH; MELISSA
BENDOLPH (LANG); ZSAQUEZ R.
BEVERLY; TAMMY BLACKMORE;
JAMES BREECH, IV; TAMARCUS
BREECH; GAIL D. BROWN;
KEITH BROWN; SHOMONA D.
BROWN; STEPHANIE Y.
BURROWES; LAWARNER H.
BUSH; ROSEMARY CALDWELL;
HAROLD CAWTHORNE;
MARILYN W. CHAPMAN; DORA J.
CHESTANG; DAVETTE W. COBB;
DAVID DALLAS; MIRANDA DAVIS;
PAULINE A. DAVIS; RODERICK D.
DAVIS; GWENDOLYN R. DAY;
TIMOTHY A. DEMINGS; AUSTON L.
DURGIN; XAVIA P. EDWARDS;
ZELDA D. EDWARDS; TORINA D.
ELDRIDGE; MELISSA ESSEX;
KATONYA B. FROST; EDDIE
GAMBLE, III; GABRIEL GASTON;
BRIDGETTE D. GOODE;
ERNEST C. GOODE, JR.;
RODERICK L. GORDON, SR.;
VEBERLY A. GREEN; RIKKE H.
GRIFFIN; CLEON GULLEY;
MARTIN GWIN; ANTHONY D.
HARRIS; ROOSEVELT G. HARRIS;
TUNGLIA W. HAWKINS; BARON L.
HAYES; LEARA HENDERSON;
WANDA HENDERSON; DEBORAH
HENDRIX; CAROL B. HOLLOWAY;
TRACI HOLMES; MARCELLA
HOLTZ; MAURICE HOUSTON;
WALKENER HUDSON; JOHN D.
IRVING; ETHEL JACKSON;
TARJI M. JACKSON; CEPHUS L.
JOHNSON, JR.; MARIAN E.
JOHNSON; CHARLES A.

CASE NUMBER CV 99- 003326 W

JOHNSTON, JR.; HOPE J. JONES; *
 TASKY M. JORDAN; CLAUDIA *
 KIMBROUGH; ANDRE G. KING; *
 DAN F. KING; PAMELA LAFFITTE; *
 YOLANDA T. LANE; FLÖYD *
 LANGER, JR.; REGINALD D. LAW; *
 ANDREW J. LEE; DeANGELA M. *
 LOPER; JACQUELYN MANUEL; *
 VERONICA MARSH; *
 CHRISTOPHER MATTHEWS; *
 GEORGIA M. McCANN; *
 MICHAEL F. McCLINTON; GARY L. *
 McCONICO, SR.; ANNA L. *
 McCONN; GLORIA P. McCOVERY; *
 ASHANTA McGEE; EDGAR L. *
 McKENZIE; RUTHIE McQUEEN; *
 ESTER L. MITCHELL; LORRAINE *
 CHARLES-MITCHELL; CINDY *
 MONIGAN; YOLONDA MOORE; *
 ARDECÈ V. MYRICK; JOHN T. *
 NEESE; NICHOLAS J. *
 O'DONOGHUE; TANGZANIKA L. *
 OVERTON; NAKIMA PACKER; *
 PEARLINE PATRICK; *
 CHAROLETTE PATTERSON; *
 TONY B. PATTERSON; SHANE E. *
 PATTON; JO ANN PEAVY; *
 ERIC PEOPLES; JESSIE L. *
 PETTAWAY, JR.; ANISSA POPE; *
 MARY L. PORTER; PAMELA D. *
 POWE; FELECIA PRINCE; *
 SHARRON R. PROWELL; *
 LOLITA M. PUGH; EDGAR B. *
 QUARLES, JR.; SANDRA RANKIN; *
 EMILEY ROBINSON; KEITH A. *
 ROBINSON; RANDAL M. ROCKER; *
 TIMOTHY B. RUSSELL, JR.; *
 MICHAEL M. SCOTT; *
 ETTA HUNTER-SIGLER; *
 DELMARIE D. SMITH; *
 VALERIE R. SMITH; WILLIAM *
 STEEN, JR.; ELMO D. STOVALL; *
 DEMETRICE TATE; VICTORIA D. *
 TAYLOR; JOE A. THOMPSON; *
 LUCILLE THORNTON; CRYSTAL R. *
 THREADGILL; GARY TILLMAN; *

ELLA D. TOLBERT; REGINALD L. *
TRAYLOR; WILLIAM B. *
TREADWELL; DAN C. TUCKER; *
KEITH A. TURNER, SR.; BRENDA *
WALKER; EDWARD A. WALKER; *
ERICA D. TURNER-WALKER; *
CAROL WASHINGTON; *
MARQUIS L. WESTRY; ABRAM *
WILLIAMS; CHRISTOPHER *
WILLIAMS; HERBERT L. *
WILLIAMS; OSBIEN L. WILLIAMS; *
TARRA M. WILLIAMS; SIDNEY H. *
WILLIS; RODERICK YORK; *
PRISCILLA O. YOUNG; *
ROBIN K. ZIRLOTT, *

Plaintiffs, *

vs. *

THE MOBILE COUNTY *
COMMISSION, The Governing *
Body for Mobile County, Alabama, *

Defendant. *

COMPLAINT

COUNT ONE

CLAIMS FOR OVERTIME WAGE DAMAGES

COUNT ONE OF THIS COMPLAINT SEEKS DAMAGES, PURSUANT TO RULE 3.1(C) OF THE LAWS AND RULES OF THE PERSONNEL BOARD OF MOBILE COUNTY, ALABAMA, AND THE FAIR LABOR STANDARDS ACT, 29 U.S.C. § 207(A)(1), FOR OVERTIME WAGES DUE THE PLAINTIFFS FOR TIME WORKED IN EXCESS OF FORTY (40) HOURS PER WORK WEEK.

1. The Plaintiffs are employees or former employees of Mobile County who have worked as corrections officers or as Sergeants and Lieutenants at the Mobile County Metro Jail.

2. The Defendant, Mobile County Commission, is a governmental entity designated by the Alabama Legislature and, at all relevant times, the employer of the Plaintiffs named in this Complaint and, at all relevant times, subject to the Laws and Rules of the Personnel Board of Mobile County, Alabama, as provided in 1939 Alabama Local Act 470. Rule 3.1(c) of the Personnel Board provides as follows:

“PAYMENT FOR OVERTIME. 3.1(c) All employees non-exempt from the provisions of the Fair Labor Standards Act shall be compensated for overtime for all hours paid in excess of forty (40) hours per week at one and one half (1 ½) times the employees' hourly rate of pay, or in the alternative, shall be awarded compensatory time in accordance with the provisions of said Act.” (Emphasis added.)

The Plaintiffs aver that they are employees non-exempted from the provisions of the Fair Labor Standards Act.

3. The Plaintiffs aver that the Mobile County Commission is an “employer” under the purview of the Fair Labor Standards Act, 29 U.S.C. § 207(a)(1), which provides:

“(a)(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in any enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.” (Emphasis added.)

4. The Plaintiffs, who are corrections officers, allege that they are required to work a 15 minute pre-shift roll call and are required to work 15 minutes on post-shift duties in excess of the scheduled 8 hour

work shift, for which excess time they have not been compensated in accordance with Rule 3.1(c) of the Personnel Board Rules and § 207(a)(1) of the Fair Labor Standards Act.

5. The Plaintiffs, who are Sergeants and Lieutenants, allege that they are required to work 30 minutes pre-shift and 30 minutes post-shift in excess of the scheduled 8 hour work shift, for which excess time they have not been compensated in accordance with Rule 3.1(c) of the Personnel Board Rules and § 207(a)(1) of the Fair Labor Standards Act.

6. The Plaintiffs further allege, because of the "wilful" failure of the Defendant to compensate them for the overtime hours worked pursuant to 29 U.S.C. § 216(c), that they are entitled to the overtime compensation due them at one and one-half (1 1/2) times their regular hourly rate and, in addition thereto, an equal amount as liquidated damages for the three years next preceding the filing of this lawsuit. Further, the Plaintiffs allege that, pursuant to 29 U.S.C. § 216(c) of the Fair Labor Standards Act, they are entitled to a reasonable attorney fee for the prosecution of this claim and the costs of these proceedings.

WHEREFORE, the above premises considered, the Plaintiffs demand, pursuant to Rule 3.1(c) of the Personnel Board Rules and 29 U.S.C. § 207(a)(1) and § 216(c), damages against the Defendant for: 1) overtime wages due them for hours worked in excess of forty (40) hours in a work week at one and one-half (1 1/2) times their regular hourly rate; 2) an equal amount as liquidated damages for the three years next

preceding the filing of this lawsuit; 3) a reasonable attorney fee for the prosecution of this action; and 4) the costs of these proceedings.

COUNT TWO

IN COUNT TWO OF THIS COMPLAINT, THE PLAINTIFFS SEEK AN ORDER OF THIS COURT ENJOINING AND DIRECTING THE DEFENDANT TO PAY OVERTIME WAGES IN THE FUTURE TO THE PLAINTIFFS FOR TIME WORKED IN EXCESS OF FORTY (40) HOURS IN A WORK WEEK.

7. The Plaintiffs re-allege and re-assert the allegations contained in paragraphs 1, 2, 3, 4, 5, and 6 of Count One of this Complaint.

8. The Plaintiffs allege that they are entitled to be paid in the future in accordance with Rule 3.1(c) of the Laws and Rules of the Personnel Board of Mobile County, Alabama for all hours worked in excess of forty (40) hours in a work week at the rate of one and one-half (1 1/2) times the employees' hourly rate of pay.


9. The Plaintiffs allege that they are entitled to be paid in the future in accordance with 29 U.S.C. § 207(a)(1) of the Fair Labor Standards Act for all hours worked in excess of forty (40) hours in a work week at a rate not less than one and one-half times the regular rate at which he/she is employed.

PRAYER FOR RELIEF

WHEREFORE, the above premises considered, the Plaintiffs pray that the Court will enter an Order enjoining and directing the Defendant to pay overtime wages in the future to the Plaintiffs in accordance with Rule 3.1(c) of the Laws and Rules of the Personnel Board of Mobile County, Alabama, and 29 U.S.C. § 207(a)(1) of the Fair Labor Standards Act.

Respectfully submitted,

STATE OF AL. MOBILE CO.
I CERTIFY THIS
PLEADING WAS FILED ON
1999 OCT 12 P 3:51
Clerk J. J. [Signature]
CLERK CIRCUIT COURT


JOSEPH G. KULAKOWSKI, KUL002
Attorney for the Plaintiffs
254 North Conception Street
Post Office Box 2112
Mobile, Alabama 36652
Telephone Number (334) 433-9549
Facsimile Number (334) 433-9559

PLEASE HAVE SPECIAL PROCESS SERVER, DIANE CIEUTAT, SERVE
THE DEFENDANT MOBILE COUNTY COMMISSION BY SERVING SAM
JONES, ITS PRESIDENT, AS FOLLOWS:

Mobile County Commission
Mobile Government Plaza
205 Government Street
Mobile, Alabama

EXHIBIT

To: Lt. Lynn Mitchell
Lt. Roderick York
Lt. Gerald Allred
Lt. Nina Woods

From: Rick Gaston, Warden

Date: March 17, 1998

Re: Tardiness of Employees

In accordance with SOP 1.3.20 all shift personnel are to be in the shift briefing room 15 minutes prior to the starting time of each shift.

I am still continuing to see personnel dragging in late. The shift briefing door shall be locked at the appropriate time.

Each shift lieutenant or their shift sergeant is directed to counsel all personnel who are not on time. The shift supervisor will log in the daily payroll sheet submitted to administration who is late and the time they arrive.

The next letter I write on this matter will be disciplinary action against the shift supervisors. Shift lieutenants had better notify their sergeants.


Warden Rick Gaston

Warden Rick Gaston

RG/kbf

cc: Deputy Warden Jim Owens
Lt. Omar Smith

EXHIBIT

Chapter 1: Administration And Management

No. 1.3.20

Section 3: Personnel

Subject 20: Shift Briefings

Procedure(s): A - B

Effective Date: February 27, 1995

Authorizing Signature: _____
 Jack S. Tillman, Sheriff, Mobile County, Alabama

Policy: Maintaining detailed communication between all shifts of the Mobile County Metro Jail is essential to the facility's security and its efficient operation. Therefore, shift briefings are held daily for the sharing of important information between shifts.

Reference

ACA Adult Local Detention Facilities 3rd edition (3-ALDF)

None

Alabama County Jail Standards

None

National Commission on Correctional Health Care

None

General Information

1. Shift briefings occur in the Briefing Room 15 minutes prior to the starting time of each shift:

2245	Midnight Shift	(1 st)
0645	Day Shift	(2 nd)
1445	Evening Shift	(3 rd)

2. When staff Members arrive at Shift Briefing they sign the Employee Time Sheet.
3. Briefings and pass-on information routinely consists of items including, but

not limited to: scheduled releases, classification moves, SOP changes, major incidents, information included in the Shift Commander's Log and other information necessary for staff to safely and effectively perform their jobs.

4. Shift Briefings are conducted by a Shift Commander, in his absence a Security Supervisor is assigned.

Definitions

Shift - A scheduled time period of work, midnight shift (1st) 2300 to 0700, day shift (2nd) 0700 to 1500, and evening shift (3rd) 1500 to 2300.

Shift Commander - A Lieutenant assigned to oversee the security and safety of inmates and Staff Members in this facility.

Shift Commanders Log - A daily log completed by each Shift Commander used to document information which requires staff attention and is passed on to the following shift.

Security Supervisor - A Sergeant assigned to ensure that all Staff Members follow the Policy and Procedures and that Pods, Corridors, Recreation Yards, and Nurse Stations are ran in a safe and secure manner.

Forms

MCMJ-F91.100 Employee Time Sheet

Procedures

Procedure A: Routine Briefings

1. At the scheduled time, the Shift Commander being relieved, the Shift Commander coming on duty and the staff assigned to work the oncoming shift, report to the Shift Briefing Room.
2. The Shift Commander being relieved, brings the Shift Commander's Log to the Shift Briefing Room.
3. The Shift Commander being relieved, reads the pass-on information he has recorded in the Shift Commander's Log and answers any questions if asked.
4. When the Shift Commander being relieved, has finished reading his pass-on information and all questions have been answered, he gives the Shift Commander's Log to the Shift Commander coming on duty and returns to

his other duties.

5. The Shift Commander coming on duty announces each Officer's job assignment.
6. The Shift Commander coming on duty also announces any specific information necessary to the operation of the shift, which was not included in the pass-on information from the previous shift.
7. The Shift Commander and Officers report to their assigned posts.

Procedure B: Special Briefings

1. The Chief Deputy for Detention or his designee may call a special briefing in order to inform and/or discuss with staff, a particular issue or situation.
2. The Chief notifies staff, via memo, at least 24 hours in advance, when possible, or contacts staff directly.
3. The Chief shares the information and answers any questions if asked.
4. The Shift Commander, during whose shift the briefing occurs, records a summary of the meeting in the Shift Commander's Log.